

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 MARGARET ANN LAFKO,
Supervising Deputy Attorney General
3 RONALD A. CASINO, State Bar No. 70410
Deputy Attorney General
4 California Department of Justice
110 West "A" Street, Suite 1100
5 San Diego, CA 92101

6 P.O. Box 85266
San Diego, CA 92186-5266
7 Telephone: (619) 645-2068
Facsimile: (619) 645-2061

8 Attorneys for Complainant

9
10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Petition to Revoke Probation
13 Against:

14 DANIEL ROBERT ERNST
28771 Calle Del Lago, Apt. #12
15 Murrieta, CA 92563

16 Respondent.

Case No. OAH N2006010838

**PETITION TO REVOKE
PROBATION**

17
18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Petition to
21 Revoke Probation solely in her official capacity as the Executive Officer of the Board of
22 Registered Nursing, Department of Consumer Affairs.

23 2. On or about March 31, 1985, the Board of Registered Nursing (Board)
24 issued Registered Nurse License Number 382692 to DANIEL ROBERT ERNST (Respondent).
25 On or about March 20, 1995, the Board issued Nurse Practitioner Certificate Number 7481 to
26 Respondent.

27 3. On or about August 6, 2003, the license and certificate were surrendered to
28 the Board, as a form of discipline, in case number 2003-25.

4. On or about July 23, 2006, the license and certificate were reinstated and placed on three (3) years probation in case number OAH N2006010838.

JURISDICTION

5. This Petition to Revoke Probation is brought before the Board under the authority of the following laws.

6. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

7. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Section 2811 of the Code provides that a Registered Nurse License may be renewed within eight (8) years of the date it lapses.

PRIOR SURRENDER OF LICENSE

8. On or about July 24, 2002, the Board's Executive Officer filed Accusation Number 2003-25 against Respondent. The Accusation alleged four causes for discipline, as follows:

a. The first cause for discipline alleged violations of Code sections 490 and 2761, subdivision (f), based upon Respondent's having suffered criminal convictions substantially related to the qualifications, functions, or duties of a registered nurse. The convictions were: (1) a June 5, 2001 misdemeanor conviction for driving under the influence of an alcoholic beverage or drug, or under their combined influence; (2) September 6, 2001 felony convictions for burglary and embezzlement; (3) a November 1, 2001 felony conviction for burglary; and (4) November 1, 2001 misdemeanor convictions for driving under the influence of an alcoholic beverage and drug and driving with a suspended license.

b. The second cause for discipline alleged unprofessional conduct under Code sections 2761, subdivision (a), and 2762, subdivision (a), based upon Respondent's

1 commission of the following acts: (1) on March 1, 1999, Respondent obtained controlled
2 substances by fraud, deceit, misrepresentation or subterfuge by burglarizing the Rancho Family
3 Medical Group in Temecula, California and taking the controlled substances for his personal use;
4 (2) on March 15, 2001, Respondent obtained controlled substances by fraud, deceit,
5 misrepresentation or subterfuge by burglarizing the Rancho Springs Medical Center in Murrieta,
6 California and taking the controlled substances for his personal use; (3) on March 1, 1999 and
7 March 15, 1999, Respondent possessed unknown quantities of specified controlled substances in
8 violation of Code section 4060; and (4) in March 1999, April 1999, between February and March
9 2001, and on June 17, 2001, Respondent self-administered unknown quantities of specified
10 controlled substances and dangerous drugs without lawful authority.

11 c. The third cause for discipline alleged unprofessional conduct under Code
12 sections 2761, subdivision (a), and 2762, subdivision (b), based upon Respondent's having used
13 alcoholic beverages to an extent or in a manner dangerous to himself or others on April 2, 2001
14 and June 16, 2001.

15 d. The fourth cause for discipline alleged unprofessional conduct under Code
16 sections 2761, subdivision (a), and 2762, subdivision (c), based upon Respondent's having
17 suffered convictions for offenses involving the consumption of alcohol.

18 9. In March of 2003, Respondent entered into a stipulated settlement with the
19 Board in which he admitted the charges and allegations contained in the Accusation, agreed that
20 he was subject to discipline, and agreed to surrender his license and certificates. The surrender
21 was accepted by the Board and became effective on August 6, 2003.

22 **REINSTATEMENT AND PROBATION**

23 10. On or about November 8, 2005, Respondent filed a Petition for
24 Reinstatement, Case Number OAH N2006010838. The hearing on the petition revealed that
25 Respondent began to abuse drugs and alcohol in 1999 as the result of depression caused by the
26 breakup of his marriage. The hearing further revealed that Respondent stole drug samples from
27 his employers and forged prescriptions.

28 ///

1 11. The Board found that Respondent had been clean and sober since
2 February 2003, had consistently attended various treatment programs and support group
3 meetings, and was committed to recovery.

4 12. Based on its findings, the Board reinstated Respondent's registered nurse
5 license and nurse practitioner certificate, immediately revoked the license and certificate, stayed
6 the revocations, and placed Respondent on probation for three (3) years on various terms and
7 conditions. The probation became effective on July 23, 2006.

8 13. The terms and conditions of the probation which are specifically
9 applicable to this Petition to Revoke Probation are as follows:

10 a. **CONDITION NO. 2:**

11 **COMPLY WITH THE BOARD'S PROBATION PROGRAM** - Petitioner shall
12 fully comply with the conditions of the Probation Program established by the Board and
13 cooperate with representatives of the Board in its monitoring and investigation of petitioner's
14 compliance with the Board's Probation Program. Petitioner shall inform the Board in writing
15 within no more than 15 days of any address change and shall at all times maintain an active,
16 current license status with the Board, including during any period of suspension.

17 Upon successful completion of probation, petitioner's license shall be fully
18 restored.

19 b. **CONDITION NO. 3:**

20 **REPORT IN PERSON** - Petitioner, during the period of probation, shall appear in
21 person at interviews/meetings as directed by the Board or its designated representatives.

22 c. **CONDITION NO. 16:**

23 **ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS -**
24 Petitioner shall completely abstain from the possession, injection or consumption by any route of
25 all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a
26 health care professional legally authorized to do so as part of documented medical treatment.
27 Petitioner shall have sent to the Board, in writing and within fourteen (14) days, by the
28 prescribing health professional, a report identifying the medication, dosage, the date the

1 medication was prescribed, petitioner's prognosis, the date the medication will no longer be
2 required, and the effect on the recovery plan, if appropriate.

3 Petitioner shall identify for the Board a single physician, nurse practitioner or
4 physician assistant who shall be aware of petitioner's history of substance abuse and will
5 coordinate and monitor any prescriptions for petitioner for dangerous drugs, controlled
6 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
7 assistant shall report to the Board on a quarterly basis petitioner's compliance with this
8 condition. If any substances considered addictive have been prescribed, the report shall identify a
9 program for the time limited use of any such substances.

10 The Board may require the single coordinating physician, nurse practitioner, or
11 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
12 addictive medicine.

13 d. **CONDITION NO. 17:**

14 **SUBMIT TO TESTS AND SAMPLES** - Petitioner, at his expense, shall
15 participate in a random, biological fluid testing or a drug screening program which the Board
16 approves. The length of time and frequency will be subject to approval by the Board. Petitioner
17 is responsible for keeping the Board informed of petitioner's current telephone number at all
18 times. Petitioner shall also ensure that messages may be left at the telephone number when he is
19 not available and ensure that reports are submitted directly by the testing agency to the Board, as
20 directed. Any confirmed positive finding shall be reported immediately to the Board by the
21 program and petitioner shall be considered in violation of probation.

22 In addition, petitioner, at any time during the period of probation, shall fully
23 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
24 tests and samples as the Board or its representatives may require for the detection of alcohol,
25 narcotics, hypnotics, dangerous drugs, or other controlled substances.

26 If petitioner has a positive drug screen for any substance not legally authorized
27 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
28 Board files a petition to revoke probation or an accusation, the Board may suspend petitioner

1 from practice pending the final decision on the petition to revoke probation or the accusation.
2 This period of suspension will not apply to the reduction of this probationary time period.

3 If petitioner fails to participate in a random, biological fluid testing or drug
4 screening program within the specified time frame, petitioner shall immediately cease practice
5 and shall not resume practice until notified by the Board. After taking into account documented
6 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the
7 Board may suspend petitioner from practice pending the final decision on the petition to revoke
8 probation or the accusation. This period of suspension will not apply to the reduction of this
9 probationary time period.

10 **FIRST CAUSE TO REVOKE PROBATION**
11 **(Failure to Report in Person)**

12 14. Respondent's probation is subject to revocation under probation
13 conditions 2 and 3, in that on or about February 22, 2007, Respondent failed to report in person
14 for an interview with the Board's probation monitor as required.

15 **SECOND CAUSE TO REVOKE PROBATION**
16 **(Failure to Abstain From the Use of Psychotropic Drugs)**

17 15. Respondent's probation is subject to revocation under probation
18 conditions 2 and 16, in that as a result of drug testing of Respondent pursuant to condition 17,
19 Respondent tested positive for alcohol on the following dates: December 1, 2006, December 20,
20 2006, January 19, 2007, April 3, 2007, May 22, 2007, June 7, 2007, and June 19, 2007. Any one
21 of the above-stated positive tests is, in and of itself, a sufficient basis for revocation of probation.

22 **THIRD CAUSE TO REVOKE PROBATION**
23 **(Failure to Submit to Tests and Samples)**

24 16. Respondent's probation is subject to revocation under probation
25 conditions 2 and 17, in that on or about May 30, 2007, Respondent failed to submit to a
26 scheduled drug test as required.

27 ///

28 ///

1 PRAYER


2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking the probation that was granted by the Board in Case No. OAH
5 N2006010838 and imposing the disciplinary order that was stayed, thereby revoking Registered
6 Nurse License No. 382692 and Nurse Practitioner Certificate No. 7481 issued to Daniel Robert
7 Ernst;

8 2. Revoking or suspending Registered Nurse License No. 382692 and Nurse
9 Practitioner Certificate No. 7481 issued to Daniel Robert Ernst;

10 3. Taking such other and further action as deemed necessary and proper.

11 DATED: 8/13/07

12
13 
14 RUTH ANN TERRY, M.P.H., R.N.
15 Executive Officer
16 Board of Registered Nursing
17 Department of Consumer Affairs
18 State of California
19 Complainant

20 RAC:kc
21 SD2007800935
22 80139647.wpd
23
24
25
26
27
28

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for
Reinstatement:

Daniel Robert Ernst

Registered Nurse License No. 382692

Petitioner.

OAH No. N2006010838

DECISION

The attached Decision of the Board of Registered Nursing is hereby adopted by the Board as its Decision in the above-entitled matter.

This Decision shall become effective on July 23, 2006.

IT IS SO ORDERED this 23th day of June 2006.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for
Reinstatement of:

DANIEL ROBERT ERNST,

Registered Nurse License No. 382692,

Petitioner.

OAH No. N2006010838

DECISION

This matter was heard before a quorum of the Board of Registered Nursing in Burlingame, California, on February 16, 2006. Melissa G. Crowell, Administrative Law Judge, Office of Administrative Hearings, presided.

Petitioner Daniel Robert Ernst represented himself.

Hannah Hirsch Rose, Deputy Attorney General, represented the Department of Justice, Office of the Attorney General.

FACTUAL FINDINGS

1. On March 31, 1985, the Board of Registered Nursing issued to petitioner Daniel Robert Ernst Registered Nurse license number 382692. On November 25, 1988, petitioner was issued Public Health Nurse Certificate number 44107. On March 20, 1995, petitioner was issued Nurse Practitioner Certificate number 7481. On December 7, 1995, petitioner was issued Nurse Practitioner Furnishing Certificate number 7481.

2. On July 24, 2002, the board's executive officer filed an accusation against petitioner alleging four causes for discipline. The first cause for discipline alleged unprofessional conduct pursuant to Business and Professions Code section 2761, stemming from petitioner's conviction of four criminal offenses substantially related to the practice of registered nursing. The four criminal convictions were: (1) June 5, 2001, misdemeanor driving under the influence; (2) September 6, 2001, burglary and embezzlement, both felonies; (3) November 1, 2001, felony burglary; and (4) November 1, 2001, misdemeanor driving under the influence and driving with a suspended license.

The second cause for discipline alleged unprofessional conduct in violation of Business and Professions Code sections 2761, subdivision (a), and 2762, subdivision (a). Specifically, it was alleged that while licensed as a nurse petitioner did the following acts: (1) on March 1, 1999, petitioner obtained various controlled substances by fraud, deceit, misrepresentation or subterfuge by burglarizing the Rancho Family Medical Group in Temecula and taking the controlled substances for his personal use; (2) on March 15, 2001, petitioner did the same in connection with the Rancho Springs Medical Center in Murrieta; (3) on March 1 and on March 15, 1999, petitioner possessed unknown quantities of specified controlled substances in violation of Business and Professions Code section 4060; and, (4) in March 1999, April 1999, between February and March 2001, and on June 17, 2001, petitioner self-administered unknown quantities of specified controlled substances and dangerous drugs without lawful authority.

The third cause for discipline alleged unprofessional conduct in violation of Business and Professions Code sections 2761, subdivision (a), and 2762, subdivision (b), in that on April 2 and June 16, 2001, petitioner used alcoholic beverages to an extent or in a manner dangerous to himself or others.

The fourth cause for discipline alleged unprofessional conduct in violation of Business and Professions Code sections 2761, subdivision (a), and 2762, subdivision (c), in that on June 5 and November 1, 2001, petitioner was convicted of offenses involving the consumption of alcohol.

3. In March of 2003 petitioner entered into a stipulated settlement in which he admitted the allegations, admitted that he was subject to discipline as alleged in the accusation, and agreed to surrender to the board his license and certificates. Petitioner further agreed that in event his license and certificates were reinstated he would pay the board its costs of investigation and enforcement of \$1,666.25.

4. Petitioner filed this petition for reinstatement on November 8, 2005. Petitioner seeks reinstatement of his registered nurse license, his public health nurse certificate and his nurse practitioner certificate. He does not seek reinstatement of his nurse practitioner furnishing certificate.

5. Petitioner began to abuse drugs and alcohol in 1999. This conduct came as a result of the breakup of his 13-year marriage with three children. He became depressed and self-medicated. He stole drug samples from employers and forged prescriptions. He did not seek help from family or friends. Petitioner fully accepts responsibility for all his conduct underlying the surrender of his license and certificates.

6. Petitioner has been clean and sober since February 2003. He enrolled and completed the DMV Multiple Offense Program in January 2005. In addition, petitioner completed a 180-day residential treatment program in April 2003. Petitioner has consistently attended, and provided verification for attendance of, meetings of Alcoholics Anonymous and Narcotics Anonymous from April 2003 through February 2006. Petitioner continues to attend meetings one to three times per week. He has a sponsor with whom

he talks with weekly. His divorce is final and he lives close to his children. He has a strong support system in place.

7. On October 7, 2004, petitioner became certified by the California Bureau for Private Postsecondary and Vocational Education as an instructor certified to teach anatomy and medical terminology. Since January 2004 petitioner has worked at Maric College in Vista, California, as an instructor of anatomy and medical terminology. Petitioner has received a letter of commendation from his department director, and received positive student evaluations. He submitted very favorable recommendations by Maric College Campus President Jann Mitchell and Department Director Nikki Randolph.

8. In June 2005 petitioner obtained a certification as a phlebotomy technician.

9. Petitioner has provided training certificates for educational matters and AIDS prevention.

10. Petitioner presented evidence that in November 2005 his felony convictions were reduced to misdemeanors pursuant to Penal Code section 17 and then expunged under Penal Code section 1203.4.

11. If reinstated, petitioner would like to pursue a Ph.D. in nursing and eventually teach in a nursing program. Petitioner understands that while on probation he must engage in the practice of nursing. During probation he would seek to work in a family practice clinic.

LEGAL CONCLUSIONS

Petitioner is to be commended for the significant steps he has taken in his rehabilitation. Petitioner has demonstrated a full and sincere commitment to recovery. He has therefore established cause to grant his petition for reinstatement of his registered nurse license and his nurse practitioner certificate. At this time he has not established cause to reinstate his public health nurse or his nurse practitioner furnishing certificates. He is required to pay to the Board its costs of investigation and enforcement.

ORDER

I. The application for reinstatement of Daniel Robert Ernst for reinstatement of his public health nurse and his nurse practitioner furnishing certificates is denied.

II. The application for reinstatement of Daniel Robert Ernst for reinstatement of his registered nurse license and his nurse practitioner certificate is granted. A registered nurse license and a nurse practitioner certificate shall be issued to petitioner. The license and certificate shall immediately be revoked, the order of revocation stayed and petitioner placed on probation for a period of three years on the following conditions.

Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof,

shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. OBEY ALL LAWS – Petitioner shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by petitioner to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, petitioner shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

CRIMINAL COURT ORDERS: If petitioner is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

2. COMPLY WITH THE BOARD'S PROBATION PROGRAM – Petitioner shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of petitioner's compliance with the Board's Probation Program. Petitioner shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, petitioner's license shall be fully restored.

3. REPORT IN PERSON – Petitioner, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or its designated representatives.

4. RESIDENCY, PRACTICE, OR LICENSURE OUTSIDE OF STATE – Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Petitioner's probation is tolled, if and when he resides outside of California. Petitioner must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Petitioner shall provide a list of all states and territories where he has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Petitioner shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Petitioner shall inform the Board if he applies for or obtains a new nursing license during the term of probation.

5. SUBMIT WRITTEN REPORTS – Petitioner, during the period of probation, shall submit or cause to be submitted such written reports/ declarations and verification of actions under penalty of perjury, as required by the Board.

These reports/declarations shall contain statements relative to petitioner's compliance with all the conditions of the Board's Probation Program. Petitioner shall immediately execute all release of information forms as may be required by the Board or its representatives.

Petitioner shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which he has a registered nurse license.

6. FUNCTION AS A REGISTERED NURSE – Petitioner, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If petitioner has not complied with this condition during the probationary term, and petitioner has presented sufficient documentation of his good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of petitioner's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

7. EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS – Petitioner shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Petitioner shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Petitioner shall provide a copy of this decision to his employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, petitioner shall notify the Board in writing within seventy-two (72) hours after he obtains any nursing or other health care related employment. Petitioner shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

8. SUPERVISION – Petitioner shall obtain prior approval from the Board regarding petitioner's level of supervision and/or collaboration before

commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Petitioner shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Petitioner's level of supervision and/or collaboration may include, but is not limited to the following:

- (a) Maximum – The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.
- (b) Moderate – The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours petitioner works.
- (c) Minimum – The individual providing supervision and/or collaboration has person-to-person communication with petitioner at least twice during each shift worked.
- (d) Home Health Care – If petitioner is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with petitioner as required by the Board each work day. Petitioner shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by petitioner with or without petitioner present.

9. EMPLOYMENT LIMITATIONS – Petitioner shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Petitioner shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Petitioner shall not work in any other registered nursing occupation where home visits are required.

Petitioner shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict petitioner from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Petitioner shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Petitioner shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If petitioner is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

10. COMPLETE A NURSING COURSE(S) – Petitioner, at his own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of his probationary term.

Petitioner shall obtain prior approval from the Board before enrolling in the course(s). Petitioner shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to petitioner after photocopying them for its records.

11. COST RECOVERY – Petitioner shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$ 1,666.25. Petitioner shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

If petitioner has not complied with this condition during the probationary term, and petitioner has presented sufficient documentation of his or his good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of petitioner's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation will apply.

12. VIOLATION OF PROBATION – If petitioner violates the conditions of his probation, the Board after giving petitioner notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation) of petitioner's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against petitioner's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against petitioner's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

13. LICENSE SURRENDER – During petitioner's term of probation, if he ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, petitioner may surrender his license to the Board.

The Board reserves the right to evaluate petitioner's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, petitioner will no longer be subject to the conditions of probation.

Surrender of petitioner's license shall be considered a disciplinary action and shall become a part of petitioner's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

- (a) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or
- (b) One year for a license surrendered for a mental or physical illness.

14. PHYSICAL EXAMINATION – Within 45 days of the effective date of this decision, petitioner, at his expense, shall have a licensed physician, nurse practitioner, or physician assistant, who is approved by the Board before the assessment is performed, submit an assessment of petitioner's physical condition and capability to perform the duties of a registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If medically determined, a recommended treatment program will be instituted and followed by petitioner with the physician, nurse practitioner, or physician assistant providing written reports to the Board on forms provided by the Board.

If petitioner is determined to be unable to practice safely as a registered nurse, the licensed physician, nurse practitioner, or physician assistant making this determination shall immediately notify the Board and petitioner by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Petitioner shall immediately cease practice and shall not resume practice until notified by the Board. During this period of suspension, petitioner shall not engage in any practice for which a license issued by the Board is required until the Board has notified petitioner that a medical determination permits petitioner to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If petitioner fails to have the above assessment submitted to the Board within the 45-day requirement, petitioner shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by petitioner to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

15. PARTICIPATE IN TREATMENT/REHABILITATION PROGRAM FOR CHEMICAL DEPENDENCE – Petitioner, at his expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a Board-approved treatment/rehabilitation program of at least six months duration. As required, reports shall be submitted by the program on forms provided by the Board. If petitioner has not completed a Board-approved treatment/rehabilitation program prior to commencement of probation, petitioner, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program is not successfully completed within the first nine months of probation, the Board shall consider petitioner in violation of probation.

Based on Board recommendation, each week petitioner shall be required to attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added. Petitioner shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation. Petitioner shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

16. ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS – Petitioner shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Petitioner shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, petitioner's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Petitioner shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of petitioner's history of substance abuse and will coordinate and monitor any prescriptions for petitioner for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis petitioner's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

17. SUBMIT TO TESTS AND SAMPLES – Petitioner, at his expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. Petitioner is responsible for keeping the Board informed of petitioner's current telephone number at all times. Petitioner shall also ensure that messages may be left at the telephone number when he is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and petitioner shall be considered in violation of probation.

In addition, petitioner, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If petitioner has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke probation or an accusation, the Board may suspend petitioner from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

If petitioner fails to participate in a random, biological fluid testing or drug screening program within the specified time frame, petitioner shall immediately cease practice and shall not resume practice until notified by the Board. After taking into account documented evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may suspend petitioner from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

18. MENTAL HEALTH EXAMINATION – Petitioner shall, within 45 days of the effective date of this decision, have a mental examination including psychological testing as appropriate to determine his capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the Board. All costs are the responsibility of petitioner. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by petitioner.

If petitioner is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the Board and petitioner by telephone, and the Board shall

request that the Attorney General's office prepare an accusation or petition to revoke probation. Petitioner shall immediately cease practice and may not resume practice until notified by the Board. During this period of suspension, petitioner shall not engage in any practice for which a license issued by the Board is required, until the Board has notified petitioner that a mental health determination permits petitioner to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If petitioner fails to have the above assessment submitted to the Board within the 45-day requirement, petitioner shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by petitioner to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

19. THERAPY OR COUNSELING PROGRAM – Petitioner, at his expense, shall participate in an on-going counseling program until such time as the Board releases him from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

DATED: June 23, 2006 .



LAFRANCINE TATE
President
Board of Registered Nursing

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 2003-25

DANIEL ROBERT ERNST
4086 Arcadia Way
Oceanside, CA 92056

Registered Nurse License No. 382692
Public Health Nurse Certificate No. 44107
Nurse Practitioner Certificate No. 7481
Nurse Practitioner Furnishing
Certificate No. 7481

Respondent.

DECISION

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on August 6, 2003.

IT IS SO ORDERED this day of July 7, 2003.

Sandra R. Erickson

President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 BILL LOCKYER, Attorney General
of the State of California
2 TIMOTHY L. NEWLOVE, State Bar No. 73428
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, California 92101
5 P.O. Box 85266
San Diego, California 92186-5266
6 Telephone: (619) 645-3034
Facsimile: (619) 645-2061

7 Attorneys for Complainant
8
9

10 **BEFORE THE**
BOARD OF REGISTERED NURSING
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the Accusation Against:

14 DANIEL ROBERT ERNST
4086 Arcadia Way
15 Oceanside, California 92056

16 Registered Nurse License No. 382692
Public Health Nurse Certificate No. 44107
17 Nurse Practitioner Certificate 7481
Nurse Practitioner Furnishing Certificate
18 No. 7481

19 Respondent.
20

Case No. 2003-25

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
22 above-entitled proceeding that the following matters are true:

23 PARTIES

24 1. Complainant, Ruth Ann Terry, M.P.H., R.N., is the Executive Officer of
25 the Board of Registered Nursing of the Department of Consumer Affairs ("Board").
26 Complainant brought this action solely in her official capacity and is represented in this matter by
27 Bill Lockyer, Attorney General of the State of California, by Timothy L. Newlove, Deputy
28 Attorney General.

2. Respondent DANIEL ROBERT ERNST ("Respondent") represents himself in this matter.

3. On or about March 31, 1985, the Board issued Registered Nurse License Number 382692 to respondent. The license will expire on May 31, 2004, unless renewed.

4. On or about November 25, 1988, the Board issued Public Health Nurse Certificate Number 44107 to Respondent. The certificate will expire on May 31, 2004, unless renewed.

5. On or about March 20, 1995, the Board issued Nurse Practitioner Certificate Number 7481 to Respondent. On or about December 7, 1995, the Board issued Nurse Practitioner Furnishing Certificate Number 7481 to Respondent. The certificates will expire on May 31, 2004, unless renewed.

JURISDICTION

6. Accusation, Number 2003-25, was issued by the Board's Executive Officer on July 27, 2002, and is currently pending against Respondent. The Accusation, together with all other statutorily required documents, was duly served on Respondent on August 6, 2002. On August 14, 2002, Respondent submitted a Notice of Defense contesting the Accusation. A copy of the Accusation, Number 2003-25, is attached hereto as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

7. Respondent has carefully read the charges and allegations contained in the Accusation, Number 2003-25. Respondent also has read and carefully considered this Stipulated Surrender of License, and understands the effect it will have on his ability to practice nursing in California.

8. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation, the right to be represented by counsel at his own expense, the right to confront and cross-examine the witnesses against him, the right to present evidence and to testify on his own behalf, the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents, the right to

reinstatement of a revoked license in effect at the time the Petition is filed, and all of the charges and allegations contained in the Accusation, Number 2003-25, will be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the Petition.

15. Respondent fully understands and agrees that he may not petition the Board for reinstatement of the surrendered licenses and certificates for two (2) years from the effective date of the Board's Decision and Order adopting this Stipulated Surrender of License.

16. Respondent understands and agrees that upon reinstatement of the license, he shall pay to the Board the costs associated with its investigation and enforcement of the Accusation, Number 2003-25, pursuant to Business and Professions Code section 125.3 in the amount of \$1,666.25. Respondent shall be permitted to pay these costs in a payment plan approved by the Board.

RESERVATION

17. The admissions made by Respondent herein are only for the purpose of this proceeding, or any other proceeding in which the Board of Registered Nursing or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

18. This Stipulation shall be subject to the approval of the Board of Registered Nursing. Respondent understands and agrees that Board's staff and counsel for Complainant may communicate directly with the Board regarding this Stipulated Surrender, without notice to or participation by Respondent or her counsel. If the Board fails to adopt this Stipulation as its Order, the Stipulated Surrender of License shall be of no force or effect, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action in this matter by virtue of its consideration of this Stipulation.

19. The parties agree that facsimile signatures to this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as original Stipulated Settlement and Disciplinary Order and signatures.

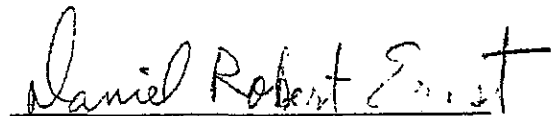
/ / /

ACCEPTANCE

I, DANIEL ROBERT ERNST, have carefully read the above Stipulated Surrender of License and enter into this agreement freely and voluntarily, with full knowledge of its force and effect. I hereby surrender my Registered Nurse License, Public Health Nurse Certificate, Nurse Practitioner Certificate and Nurse Practitioner Furnishing Certificate to the Board of Registered Nursing for formal acceptance. By signing this Stipulated Surrender of License, I recognize that, upon its formal acceptance by the Board, I will lost all rights and privileges to practice as a Registered Nurse, Public Health Nurse and Nurse Practitioner in the State of California, and I will cause to be delivered to the Board my licenses and wall certificates before the effective date of the Decision.

I further agree that a facsimile copy of this Stipulated Surrender of License and Order, including facsimile copies of signatures, may be used with the same force and effect as the originals.

DATED: 3/24/03

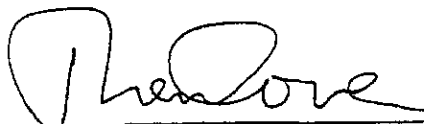

DANIEL ROBERT ERNST
Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: April 8, 2003

BILL LOCKYER, Attorney General
of the State of California



TIMOTHY L. NEWLOVE
Deputy Attorney General

Attorneys for Respondent

1 BILL LOCKYER, Attorney General
of the State of California
2 TIMOTHY L. NEWLOVE, State Bar No. 73428
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, CA 92101

5 P.O. Box 85266
San Diego, CA 92186-5266
6 Telephone: (619) 645-3034
Facsimile: (619) 645-2061

7 Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2003-25

13 **DANIEL ROBERT ERNST**
4086 Arcadia Way
14 Oceanside, California 92056

ACCUSATION

15 Registered Nurse License No. 382692
Public Health Nurse Certificate No. 44107
16 Nurse Practitioner Certificate No. 7481
Nurse Practitioner Furnishing Certificate No. 7481

17 Respondent.
18

19 Complainant alleges:

20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
22 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
23 (Board), Department of Consumer Affairs.

24 **Registered Nurse License No. 382692**

25 2. On or about March 31, 1985, the Board issued Registered Nurse License
26 Number 382692 to Daniel Robert Ernst (Respondent). The license was in full force and effect at
27 all times relevant to the charges brought herein and will expire on May 31, 2004, unless renewed.

28 ///

1 **Public Health Nurse Certificate No. 44107**

2 3. On or about November 25, 1988, the Board issued Public Health Nurse
3 Certificate Number 44107 to Respondent. The certificate was in full force and effect at all times
4 relevant to the charges brought herein and will expire on May 31, 2004, unless renewed.

5 **Nurse Practitioner Certificate No. 7481**

6 4. On or about March 20, 1995, the Board issued Nurse Practitioner
7 Certificate Number 7481 to Respondent. On or about December 7, 1995, the Board issued Nurse
8 Practitioner Furnishing Certificate Number 7481 to Respondent. The certificates were in full
9 force and effect at all times relevant to the charges brought herein and will expire on May 31,
10 2004, unless renewed.

11 **STATUTORY PROVISIONS**

12 5. Section 2750 of the Business and Professions Code (Code) provides, in
13 pertinent part, that the Board may discipline any licensee, including a licensee holding a
14 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
15 2750) of the Nursing Practice Act.

16 6. Section 2761 of the Code states, in pertinent part:

17 The board may take disciplinary action against a certified or licensed
18 nurse or deny an application for a certificate or license for any of the following:

19 (a) Unprofessional conduct.

20

21 (f) Conviction of a felony or of any offense substantially related
22 to the qualifications, functions, and duties of a registered nurse, in which
event the record of the conviction shall be conclusive evidence thereof...

23 7. Section 2762 of the Code states, in pertinent part:

24 In addition to other acts constituting unprofessional conduct within
25 the meaning of this chapter [the Nursing Practice Act], it is unprofessional
conduct for a person licensed under this chapter to do any of the following:

26 (a) Obtain or possess in violation of law, or prescribe, or except
27 as directed by a licensed physician and surgeon, dentist, or podiatrist
administer to himself or herself, or furnish or administer to another, any
28 controlled substance as defined in Division 10 (commencing with Section

1 11000) of the Health and Safety Code or any dangerous drug or dangerous
2 device as defined in Section 4022.

3 (b) Use any controlled substance as defined in Division 10
4 (commencing with Section 11000) of the Health and Safety Code, or any
5 dangerous drug or dangerous device as defined in Section 4022, or alcoholic
6 beverages, to an extent or in a manner dangerous or injurious to himself or
7 himself, any other person, or the public or to the extent that such use impairs
8 his or her ability to conduct with safety to the public the practice authorized
9 by his or her license.

10 (c) Be convicted of a criminal offense involving the prescription,
11 consumption, or self-administration of any of the substances described in
12 subdivisions (a) and (b) of this section, or the possession of, or falsification
13 of a record pertaining to, the substances described in subdivision (a) of this
14 section, in which event the record of the conviction is conclusive evidence
15 thereof . . .

16 8. Section 490 of the Code states:

17 A board may suspend or revoke a license on the ground that the
18 licensee has been convicted of a crime, if the crime is substantially related to
19 the qualifications, functions, or duties of the business or profession for which
20 the license was issued. A conviction within the meaning of this section means
21 a plea or verdict of guilty or a conviction following a plea of nolo contendere.
22 Any action which a board is permitted to take following the establishment of a
23 conviction may be taken when the time for appeal has elapsed, or the judgment
24 of conviction has been affirmed on appeal, or when an order granting probation
25 is made suspending the imposition of sentence, irrespective of a subsequent
26 order under the provisions of Section 1203.4 of the Penal Code.

27 9. Section 4060 of the Code states, in pertinent part, that no person shall
28 ~~possess any controlled substance except that furnished to a person upon the prescription of a~~
physician, dentist, podiatrist, or veterinarian.

10. Health and Safety Code section 11173(a) states, in pertinent part, that no
person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure
the administration of or prescription for controlled substances by fraud, deceit, misrepresentation
or subterfuge.

11. Section 125.3 of the Code provides, in pertinent part, that the Board may
request the administrative law judge to direct a licensee found to have committed a violation or
violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
and enforcement of the case.

///

1 12. **Drugs.**

2 a. "Xanax," a trade name for alprazolam, is a Schedule IV controlled
3 substance as designated by Health and Safety Code section 11057(d)(1).

4 b. "Demerol," a brand of meperidine hydrochloride, a derivative of pethidine,
5 is a Schedule II controlled substance as designated by Health and Safety Code section
6 11055(c)(17).

7 c. "Morphine Sulfate" is a Schedule II controlled substance as designated by
8 Health and Safety Code section 11055(b)(1)(M).

9 d. "Vicodin," a combination drug containing hydrocodone bitartrate and
10 acetaminophen, is a Schedule III controlled substance as designated by Health and Safety Code
11 section 11056(e)(2).

12 e. "Sodium Pentathol," also known as thiopental sodium, is a dangerous drug
13 within the meaning of Code section 4022 in that it requires a prescription under federal law.

14 f. "Fentanyl" is a Schedule II controlled substance as designated by Health
15 and Safety Code section 11055(c)(8).

16 g. "Versed," a brand of midazolam, is a dangerous drug within the meaning
17 of Code section 4022 in that it requires a prescription under federal law.

18 h. "Propofol" is a dangerous drug within the meaning of Code section 4022
19 in that it requires a prescription under federal law.

20 i. "Tramadol" (tramadol hydrochloride), is a dangerous drug within the
21 meaning of Code section 4022 in that it requires a prescription under federal law.

22 j. "Sonata," a trade name for zaleplon, is a dangerous drug within the
23 meaning of Code section 4022 in that it requires a prescription under federal law.

24 ///

25 ///

26 ///

27 ///

28 ///

FIRST CAUSE FOR DISCIPLINE

(Criminal Convictions)

13. Respondent is subject to disciplinary action under Code sections 2761(f) and 490 in that he was convicted of criminal offenses which are substantially related to the qualifications, functions and duties of a registered nurse, as follows:

a. On or about June 5, 2001, Respondent was convicted by the Court on his plea of nolo contendere to one (1) misdemeanor count in violation of Vehicle Code section 23152(a) (driving under the influence of an alcoholic beverage or drug) in the criminal proceeding entitled *People vs. Daniel Robert Ernst*, San Luis Obispo Municipal Court (Grover Beach Branch), Case Number M310300. The circumstances of the crime are that on or about April 2, 2001, Respondent drove a vehicle in San Luis Obispo County, California, while under the influence of an alcoholic beverage or drug, or under their combined influence.

b. On or about September 6, 2001, Respondent plead guilty to one (1) felony count in violation of Penal Code section 459 (burglary) and one (1) felony count in violation of Penal Code section 503 (embezzlement) in the criminal proceeding entitled *People vs. Daniel Robert Ernst*, Riverside Superior Court, Case Number PEF0062898. The circumstances of the crimes are that on or about March 1, 1999, Respondent wilfully and unlawfully entered a certain building located at the Rancho Family Medical Group, Temecula, California, with the intent to commit theft and a felony. Further, on and between March 1, 1999, and April 12, 1999, while employed by the Rancho Family Medical Group, Respondent wilfully and unlawfully appropriated to his own use prescription drugs of a value exceeding four hundred dollars (\$400.00).

c. On or about November 1, 2001, Respondent plead guilty to one (1) felony count in violation of Penal Code section 459 (burglary) in the criminal proceeding entitled *People v. Daniel Robert Ernst*, Riverside Superior Court, Case Number PEF006843. The circumstances of the crime are that on or about September 29, 2001, Respondent wilfully and unlawfully entered a certain building located at 41516 Kalmia Street, Murrieta, California, with the intent to commit theft and a felony.

1 d. On or about November 1, 2001, Respondent plead guilty to one (1)
2 misdemeanor count in violation of Vehicle Code section 23152(a) (driving under the influence of
3 an alcoholic beverage and a drug) and one (1) misdemeanor count in violation of Vehicle Code
4 section 14601.5(a) (driving a vehicle while driving privilege suspended and revoked) in the
5 criminal proceeding entitled *People vs. Daniel Robert Ernst*, Riverside Superior Court, Case
6 Number PEM033940. The circumstances of the crimes are that on or about June 16, 2001,
7 Respondent wilfully and unlawfully drove a vehicle in Riverside County, California, while under
8 the influence of an alcoholic beverage and a drug and under their combined influence. Further,
9 Respondent wilfully and unlawfully drove said vehicle while knowing his driving privileges had
10 been suspended and revoked pursuant to sections 13353, 11353.1, and 13353.2 of the Vehicle
11 Code.

12 **SECOND CAUSE FOR DISCIPLINE**

13 (Diversion, Possession and Self-Administration
14 of Controlled Substances)

15 14. Respondent is subject to disciplinary action under Code section 2761(a) on
16 the grounds of unprofessional conduct, as defined by Code section 2762(a), in that while licensed
17 as a registered nurse, Respondent did the following:

18 a. On or about March 1, 1999, Respondent obtained unknown quantities of
19 Xanax, Vicodin, Demerol and Morphine, controlled substances, by fraud, deceit,
20 misrepresentation or subterfuge in violation of Health and Safety Code section 11173(a) by
21 burglarizing the Rancho Family Medical Group located in Temecula, California, as set forth in
22 subparagraph 13(b) above, and taking the aforementioned controlled substances from that facility
23 for his own personal use

24 b. On or about March 15, 2001, Respondent obtained unknown quantities of
25 sodium pentathol, Fentanyl, Versed, Morphine, and Propofol, dangerous drugs and controlled
26 substances, by fraud, deceit, misrepresentation or subterfuge in violation of Health and Safety
27 Code section 11173(a) by burglarizing the Rancho Springs Medical Center located in Murrieta,

28 ///

1 California, and taking the aforementioned controlled substances and dangerous drugs from that
2 facility for his own personal use.

3 c. On or about March 1, 1999, Respondent possessed unknown quantities of
4 Xanax, Vicodin, Demerol and Morphine, controlled substances, in violation of Code section
5 4060.

6 d. On or about March 15, 2001, Respondent possessed unknown quantities of
7 Fentanyl and Morphine, controlled substances, in violation of Code section 4060.

8 e. In or about March 1999, and April 1999, Respondent self-administered
9 unknown quantities of Xanax and Vicodin, controlled substances, without lawful authority
10 therefor.

11 f. Between approximately February 2001, and March 2001, and on or about
12 June 16, 2001, Respondent self-administered unknown quantities of Sonata, a dangerous drug,
13 without lawful authority therefor.

14 g. On or about June 12, 2001, Respondent self-administered an unknown
15 quantity of Tramadol, a dangerous drug, without lawful authority therefor.

16 **THIRD CAUSE FOR DISCIPLINE**

17 (Use of Alcoholic Beverages to an Extent or
18 in a Manner Dangerous or Injurious to Others)

19 15. Respondent is subject to disciplinary action under Code section 2761(a) on
20 the grounds of unprofessional conduct, as defined by Code section 2762(b), in that on or about
21 April 2, 2001, and June 16, 2001, Respondent used alcoholic beverages to an extent or in a
22 manner dangerous or injurious to himself and others as set forth in subparagraphs 13(a) and (d)
23 above.

24 **FOURTH CAUSE FOR DISCIPLINE**

25 (Convictions Related to the Consumption of Alcoholic Beverages)

26 16. Respondent is subject to disciplinary action under Code section 2761(a) on
27 the grounds of unprofessional conduct, as defined by Code section 2762(c), in that on or about
28 June 5, 2001, and November 1, 2001, Respondent was convicted by the court of criminal

1 offenses involving the consumption of alcoholic beverages as set forth in subparagraphs 13(a)
2 and (d) above.

3 PRAYER

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein
5 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

6 1. Revoking or suspending Registered Nurse License Number 382692, issued
7 to Respondent Daniel Robert Ernst;

8 2. Revoking or suspending Respondent's Public Health Nurse Certificate
9 Number 44107 for the same period that Respondent's registered nurse license is suspended or
10 revoked;


11 3. Revoking or suspending Respondent's Nurse Practitioner Certificate
12 Number 7481 for the same period that Respondent's registered nurse license is suspended or
13 revoked;

14 4. Revoking or suspending Respondent's Nurse Practitioner Furnishing
15 Certificate Number 7481 for the same period that Respondent's registered nurse license is
16 suspended or revoked;

17 5. Ordering Daniel Robert Ernst to pay the Board of Registered Nursing the
18 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
19 Professions Code section 125.3;

20 6. Taking such other and further action as deemed necessary and proper.

21 DATED: 7/27/02.

22
23 
24 RUTH ANN TERRY, M.P.H., R.N.
25 Executive Officer
26 Board of Registered Nursing
27 Department of Consumer Affairs
28 State of California
Complainant